

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 24, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No:05MD-247
MAUI

Rescind Prior Board Action of August 10, 2007 (D-7), Quitclaim of State's Interest, if any, in Remnants 3-B and 4, abutting West Kuiaha Road, to the County of Maui for Road Purposes, Makawao, Maui, Tax Map Key: (2) 2-7-8:113

BACKGROUND:

In the 1950's the West Kuiaha Road was realigned to make way for the construction of the Kuiaha Water Tank. Remnant 3-B and 4 were created. The County of Maui under Resolution No. 293 dated September 18, 1954 abandoned and closed the two remnants as road right-of-ways. In 2005, Mr. Gregg Blue, the abutting owner of tmk: 2-7-8:20 was expanding his farming operations and discovered he did not have street frontage.

The Land Board on August 10, 2007, under agenda Item D-7, authorized the quitclaim of interests, if any, in Remnant 3-B and 4 to the County of Maui. This would resolve any arbitrary access issues for Mr. Blue (the abutting landowner) and allow the County of Maui to maintain or dispose of Remnant 3-B and 4 as they see fit. Remnant 3-B and 4 are maintained by the County of Maui road crew.

REMARKS:

In April 2008, the County of Maui submitted the survey map and description of Remnant 3-B and 4. Due to the January 2008 Supreme Court decision (Civil No. 94-4207) covering conveyance of ceded lands to third parties, the Attorney General's office denied approval. Staff contacted the County of Maui if they would instead accept a set aside covering Remnant 3-B and 4. On September 23, 2008, the County representative said "no" and they had no objections if the State conveyed Remnant 3-B and 4 to Mr. Blue.

Staff will obtain Land Board authorization to sell Remnant 3-B and 4 to Mr. Blue at a later Board meeting.

RECOMMENDATION: That the Board:


1. Rescind the prior Board action of August 10, 2007, under agenda item D-7.


Respectfully Submitted,



Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

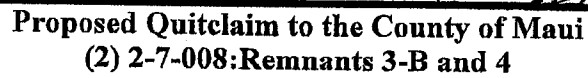


EXHIBIT A

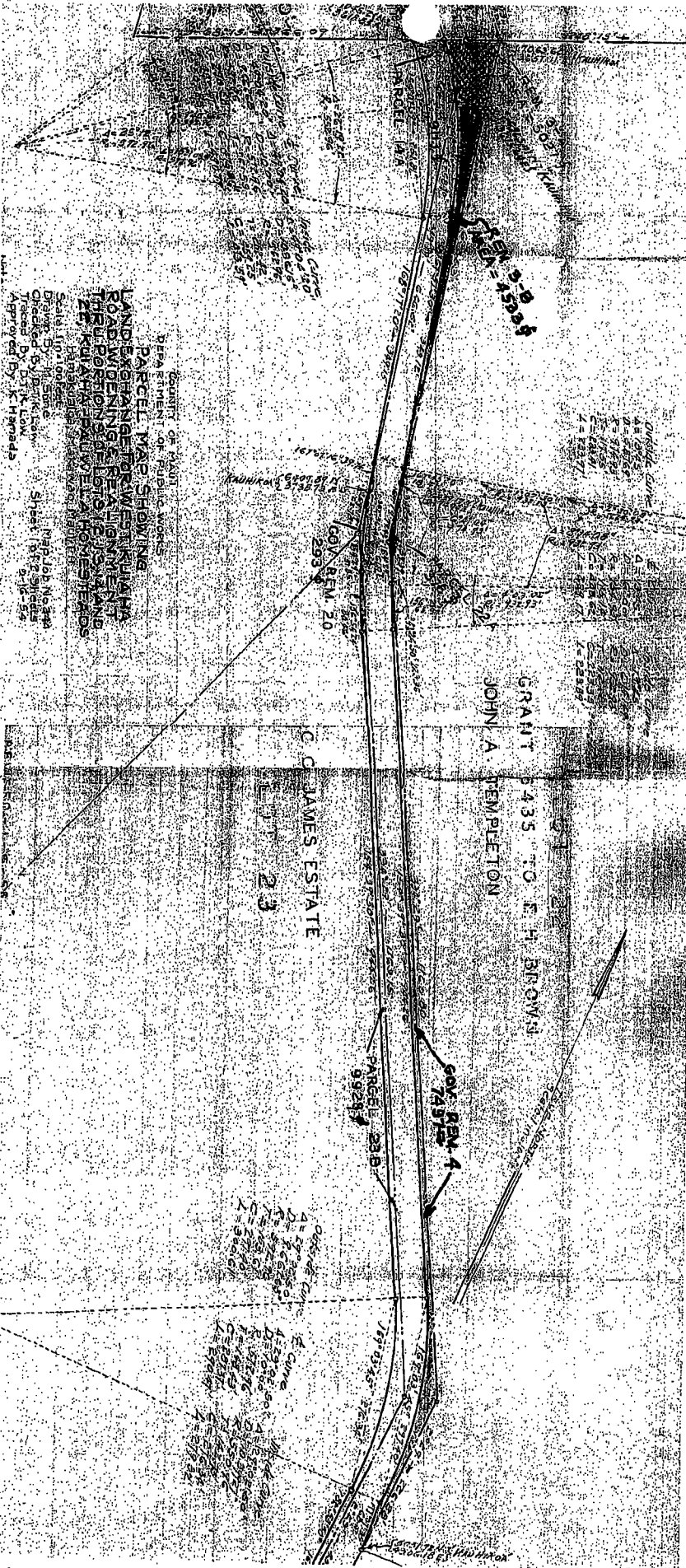


EXHIBIT "B"

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 10, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 05MD-247

Maui

Quitclaim of State's Interests, if any, in Remnants 3-B and 4, abutting West Kuiaha Road, to the County of Maui for Road Purposes, Kuiaha-Pauwela Homesteads, Makawao, Maui, Tax Map Key: (2) 2-7-008:113.

APPLICANT:

County of Maui, Department of Public Works, whose business and mailing address is 200 South High Street, Wailuku, Maui, Hawaii 96793.

LEGAL REFERENCE:

Sections 171-95(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kuiaha-Pauwela Homesteads, Makawao, Maui, identified by Tax Map Key: (2) 2-7-008:113 (Remnant 3-B) and Remnant 4, as shown on the attached map labeled Exhibit "A" and "B".

AREA:

Remnant 3-B: 4,094 square feet, more or less.
Remnant 4: 7,497 square feet, more or less.

Total: 11,591 square feet, more or less, to be determined by survey.

ZONING:

State Land Use District: Agriculture
County of Maui CZO: AG

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

August 10, 2007

D-7

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to County of Maui

August 10, 2007

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution:

YES _____ NO X

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Road purposes.

CONSIDERATION:

Gratis

APPLICANT REQUIREMENTS:

1. Provide survey maps and descriptions according to State Surveyor, Department of Accounting and General Services standards and requirements and at applicant's own cost; and
2. Provide the quitclaim documents in a form acceptable to the Attorney General.

REMARKS:

The subject remnants were the result of the realignment of West Kuiaha Road in the 1950's to make way for the construction of the Kuiaha Water Tank on an abutting parcel, identified as tax map key: (2) 2-7-008:116 (reference Governor's Executive Order No. 1680). Per County of Maui (COM) Resolution No. 293, dated September 18, 1954, COM officially abandoned and closed the subject remnants as a roadway right-of-way. All rights, title and interest were released to the Territory of Hawaii.

Consequently, an abutting 30.19 acre private property, identified as Tax Map Key: (2) 2-7-008:20 (parcel 20), lost over ninety percent (90%) of its street frontage, limiting access to the property. Parcel 20 is currently served by four (4) existing driveways that encroach on the subject remnants to access West Kuiaha Road from the owner's farm and three (3) houses on the property. The owner believes the driveways were in existence prior to the re-alignment of West Kuiaha Road in the early 1950's. The abutting landowner has requested the State to restore some of the original street frontage to his property so he can move forward with expanding his farming operation with

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to County of Maui

August 10, 2007

sufficient access.

According to staff's files, a letter from the then Commissioner of Public Lands to the Deputy County Attorney, dated October 27, 1954, indicated that the subject remnants were being proposed for conveyance to the owner(s) of parcel 20 as part of a land exchange. However, it appears said land exchange was not executed.

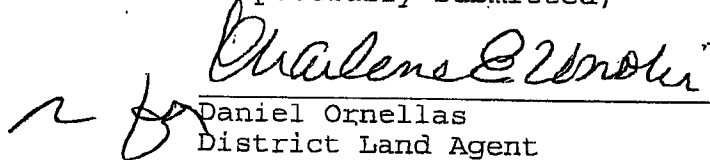
Staff feels the subject remnants should be returned to COM for roadway purposes. Doing so will help resolve any arbitrary access issues for the abutting landowner, allow COM to maintain the subject area, and/or issue a disposition to the abutting landowner, if necessary. By letter dated May 16, 2005, the COM has agreed to accept the remnants and requests a quitclaim (Exhibit C).

RECOMMENDATION:

That the Board authorize the quitclaim of interests, if any, the State may have in the subject remnant parcels to the County of Maui, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

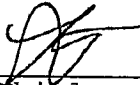
- a. The standard terms and conditions of the most current quitclaim deed form, as may be amended from time to time;
- b. Review and approval by the Department of the Attorney General; and
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

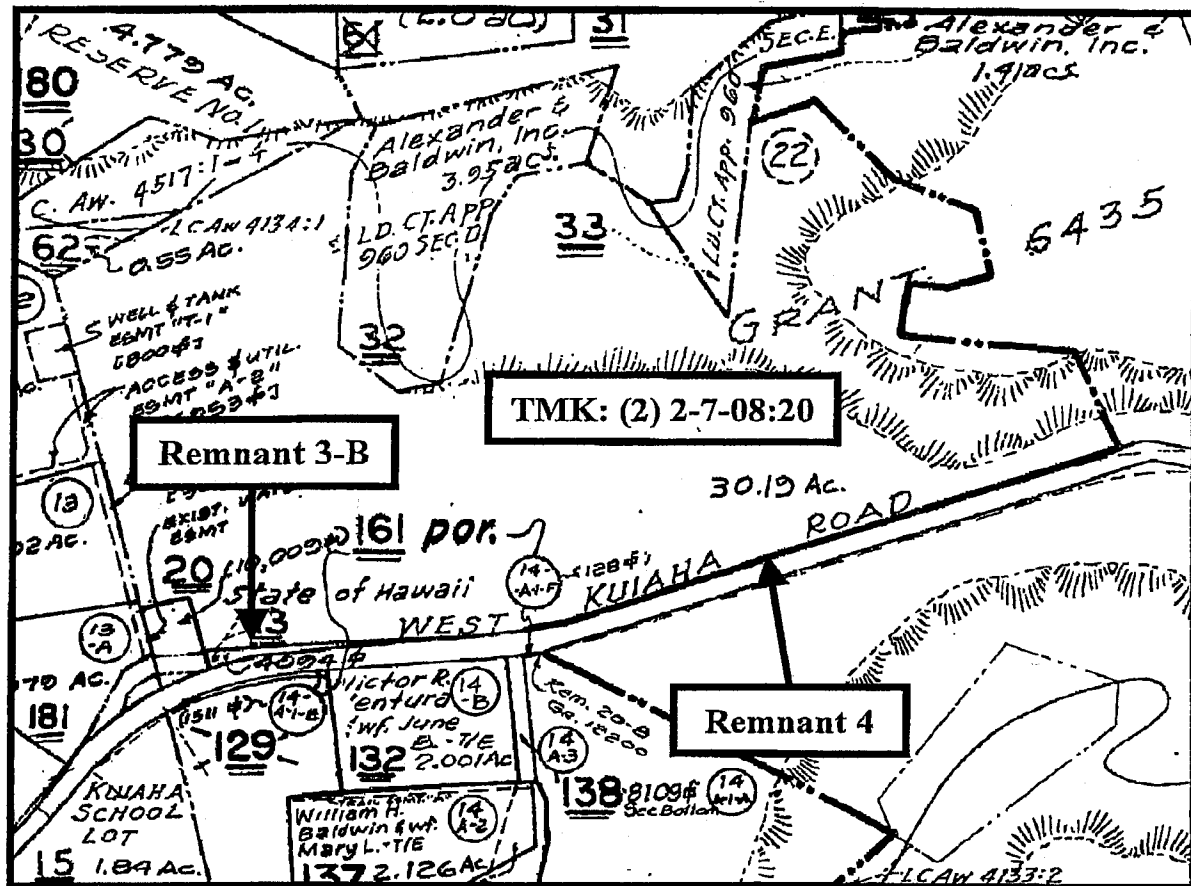


Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



Proposed Quitclaim to the County of Maui
(2) 2-7-008:Remnants 3-B and 4

EXHIBIT A

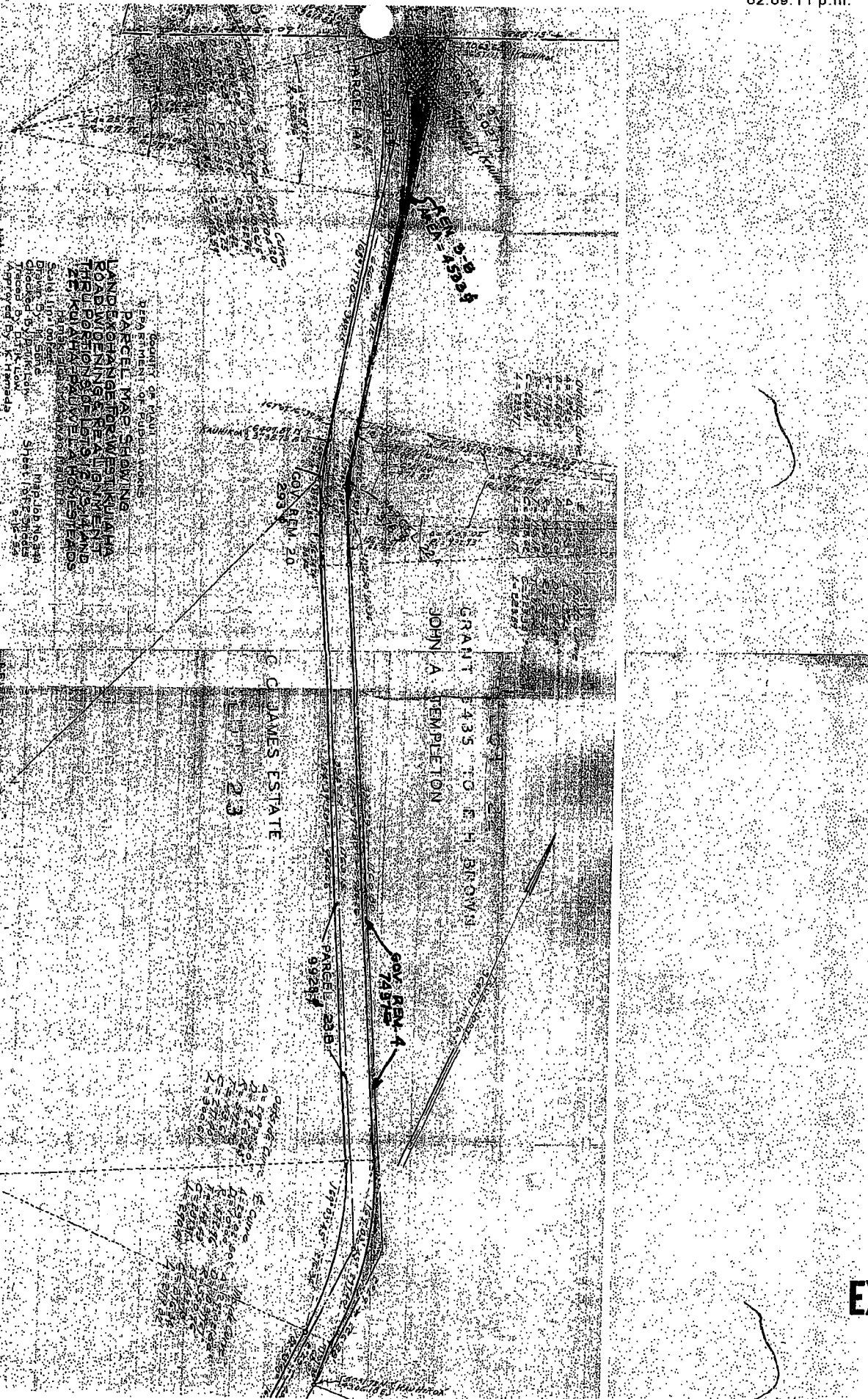


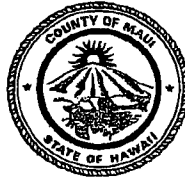
EXHIBIT "B"

ALAN M. ARAKAWA
Mayor

MILTON M. ARAKAWA, A.I.C.P.
Director

MICHAEL M. MIYAMOTO
Deputy Director

Telephone: (808) 270-7745
Fax: (808) 270-7975



COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS MAY 26
AND ENVIRONMENTAL MANAGEMENT
ENGINEERING DIVISION
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

RALPH NAGAMINE, L.S., P.E.
Development Services Administration

TRACY TAKAMINE, P.E.
Wastewater Reclamation Division

RECEIVED

CARY YAMASHITA, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

Solid Waste Division

May 16, 2005

Honorable Peter T. Young
Chair, Board of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, HI 96809

SUBJECT: WEST KUIAHA ROAD RIGHT-OF-WAY
GOVERNMENT REMNANTS 3-B AND 4
TAX MAP KEY NUMBER (2) 2-7-008
MAKAWAO, ISLAND AND COUNTY OF MAUI, HAWAII

Dear Chair Young:

We respectfully request the (gratis) quitclaim of Government Remnant 3-B [Tax Map Key Number (2) 2-7-008:113] and Government Remnant 4 to the County of Maui for the West Kuiaha Road right-of-way. We enclose a reduced copy of a map entitled Rights of Way, West Kuiaha Road, West Kuiaha, Hamakualoa, Maui, T. H. and dated July 15, 1940 which shows both remnants.

We are working with the owner of Tax Map Key Number (2) 2-7-008:020, who brought the remnants to our attention. The remnants are located between West Kuiaha Road and nearly the entire frontage of TMK (2) 2-7-008:020, limiting the parcel's legal access (to an area between the two remnants) to West Kuiaha Road.

West Kuiaha Road is a planned rural collector with a proposed right-of-way width of fifty (50) feet. The existing West Kuiaha Road right-of-way width is 42 feet and would require remnants 3-B and 4 for a fifty (50) feet wide rural collector.

Enclosed is a filled "request for state lands application form".

EXHIBIT C


Honorable Peter T. Young
SUBJECT: WEST KUIAHA ROAD RIGHT-OF-WAY
GOVERNMENT REMNANTS 3-B AND 4
TAX MAP KEY NUMBER (2) 2-7-008
MAKAWAO, ISLAND AND COUNTY OF MAUI, HAWAII

May 16, 2005

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We would appreciate your favorable approval of our request. Please call Allen Watanabe at (808) 270-7745, if you should have any questions.

Sincerely,


MILTON M. ARAKAWA, A.I.C.P.
Director of Public Works and
Environmental Management

AKW:nco(ED05-538)

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Enclosures

xc with enclosures: Daniel Ornellas, Maui District Land Agent, Land Division,
Department of Land and Natural Resources, State of Hawaii,
54 South High Street, Room 101, Wailuku, HI 96793

Development Services Administration

xc: Gregg Blue, 265 West Kuiaha Road, Haiku, HI 96708

EXHIBIT C